

**[4310-MR-W]**

**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service**

**Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request**

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Notice of a revision of a currently approved information collection (OMB Control Number 1010-0075).

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**SUMMARY:** To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR Part 206, Subpart E—Indian Gas. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements. We changed the title of this ICR to clarify the regulatory language we are covering under 30 CFR Part 206. The previous title was “Gas Processing and Transportation Allowances.” The new title is “30 CFR Part 206, Subpart E—Indian Gas, § 206.178—How do I determine a transportation allowance? (Form MMS-4295, Gas Transportation Allowance Report), and § 206.180—How do I determine an actual processing allowance? (Form MMS-4109, Gas Processing Allowance Summary Report).”

**DATES:** Submit written comments on or before (INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER).

**ADDRESSES:** Submit written comments by either FAX (202) 395-6566 or e-mail (*OIRA\_Docket@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010-0075). Mail or hand-carry a copy of your comments to Sharron L. Gebhardt, Lead Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 302B2, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A-614, Denver Federal Center, Denver, Colorado 80225. You may also e-mail your comments to us at *mrm.comments@mms.gov*. Include the title of the information collection and the OMB Control Number in the “Attention” line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your e-mail, contact Ms. Gebhardt at (303) 231-3211.

**FOR FURTHER INFORMATION CONTACT:** Sharron L. Gebhardt, telephone (303) 231-3211, FAX (303) 231-3781, e-mail *Sharron.Gebhardt@mms.gov*. You may also contact Sharron Gebhardt to obtain a copy at no cost of the form and regulations that require the subject collection of information.

**SUPPLEMENTARY INFORMATION:**

*Title:* 30 CFR Part 206, Subpart E—Indian Gas, § 206.178—How do I determine a transportation allowance? (Form MMS-4295, Gas Transportation Allowance Report), and § 206.180—How do I determine an actual processing allowance? (Form MMS-4109, Gas Processing Allowance Summary Report).

*OMB Control Number:* 1010-0075.

*Bureau Form Number:* Forms MMS-4295 and MMS-4109.

*Abstract:* The Secretary of the U.S. Department of the Interior is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary, under the Mineral Leasing Act (30 U.S.C. 1923) and the Outer Continental Shelf Lands Act (43 U.S.C. 1353), is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws.

The Secretary has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The MMS performs the royalty management functions and assists the Secretary in carrying out the Department's Indian trust responsibility. Applicable citations of the laws pertaining to mineral leases on Indian lands include 25 U.S.C. 396d (Chapter 12—Lease, Sale, or Surrender of Allotted or Unallotted Lands); 25 U.S.C. 2103 (Indian Mineral Development Act of 1982); and Public Law 97-451—Jan. 12, 1983 (Federal Oil and Gas Royalty Management Act of 1982).

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share (royalty) of the value received from production from the leased lands. The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data reported to private and public mineral interest owners and is generally available within the records of the

lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to ensure that the royalties are paid appropriately.

Proprietary information submitted to MMS under this collection is protected, and no items of a sensitive nature are collected. The MMS requires a response to obtain the benefit of transportation or processing allowance on an Indian lease.

***Transportation Allowances***—Under certain circumstances, lessees are authorized to deduct from royalty payments the reasonable actual costs of transporting the royalty portion of produced minerals from the lease to a processing or sales point not in the immediate lease area. Transportation allowances are part of the product valuation process MMS uses to determine if the lessee is reporting and paying the proper royalty amount.

***Processing Allowances***—When gas is processed for the recovery of gas plant products, lessees may claim a processing allowance. The MMS normally accepts the cost as stated in the lessee's arm's-length processing contract as being representative of the cost of the processing allowance. In those instances where gas is being processed through a lessee-owned plant, the lessee must base processing costs on the actual plant operating and maintenance expenses, depreciation, and a reasonable return on investment. The allowance is expressed as a cost per unit of individual gas plant products. Lessees may take processing allowances as a deduction from royalty payments.

The MMS collects transportation allowance data on Form MMS-4295, Gas Transportation Allowance Report. The MMS collects processing allowance data on

Form MMS-4109, Gas Processing Allowance Summary Report. The MMS and tribal personnel use the information collected on Forms MMS-4295 and MMS-4109 to evaluate the reasonableness of allowances reported and claimed by lessees. To take a transportation deduction, a lessee must submit Form MMS-4295 before or in the same month the lessee reports the transportation allowance on Form MMS-2014, Report of Sales and Royalty Remittance (OMB Control Number 1010-0140, expiration date October 31, 2006). To take a processing deduction, a lessee must submit Form MMS-4109 before or in the same month the lessee reports the processing allowance on Form MMS-2014.

The MMS is requesting OMB's approval to continue to collect this information. Not collecting this information may result in the undervaluation of leased minerals.

*Frequency:* Annually and on occasion.

*Estimated Number and Description of Respondents:* 50 Indian lessees.

*Estimated Annual Reporting and Recordkeeping "Hour" Burden:* 285 hours.

We base our calculations of the estimated burden hours on the reasonable expectation of 92 responses from 50 Indian lessees. We are including reporting requirements for arm's-length contracts, which were overlooked in the previous renewal. Each company may file numerous responses for transportation and/or processing allowances due to arm's-length and/or non-arm's-length contracts. Through customer contact, we have obtained more accurate estimates of the time required to provide the information requested. We have not included in our estimates certain requirements performed in the normal course of business and considered usual and customary. The following chart shows the estimated burden hours by CFR section and paragraph:

### Respondents' Estimated Annual Burden Hours

Citation 30 CFR 206 Subpart E	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
<i>Indian Gas Transportation Allowances</i>				
206.178 (a)(1)(i)	<b>How do I determine a transportation allowance?</b> <i>(a) Determining a transportation allowance under an arm's-length contract. (1) * * *</i> <i>(i) * * * You are required to submit to MMS a copy of your arm's-length transportation contract(s) and all subsequent amendments to the contract(s) within 2 months of the date MMS receives your report which claims the allowance on Form MMS-2014.</i>	1	50	50
206.178 (a)(1)(iii)	<b>How do I determine a transportation allowance?</b> <i>(a) Determining a transportation allowance under an arm's-length contract. (1) * * *</i> <i>(iii) If MMS determines that the consideration paid under an arm's-length transportation contract does not reflect the value of the transportation because of misconduct by or between the contracting parties, or * * *. In these circumstances, MMS will notify you and give you an opportunity to provide written information justifying your transportation costs.</i>	<b>PRODUCE RECORDS</b> The Office of Regulatory Affairs (ORA) determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		0
206.178 (b)(1)(ii)	<b>How do I determine a transportation allowance? * * *</b> <i>(b) Determining a transportation allowance under an arm's-length contract or no contract. (1) * * *</i> <i>(ii) * * *. You must submit the actual cost information to support the allowance to MMS on Form MMS-4295, Gas Transportation Allowance Report, within 3 months after the end of the 12-month period to which the allowance applies. * * *</i>	15	7	105

Citation 30 CFR 206 Subpart E	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
206.178 (d)(1)	<b>How do I determine a transportation allowance?</b> (d) <i>Reporting your transportation allowance.</i> (1) If MMS requests, you must submit all data used to determine your transportation allowance. * * *	PRODUCE RECORDS The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		0
<b>Subtotal</b>			<b>57</b>	<b>155</b>
<b><i>Indian Gas Processing Allowances</i></b>				
206.180 (a)(1)(i)	<b><i>How do I determine an actual processing allowance?</i></b> (a) <i>Determining a processing allowance if you have an arm's-length processing contract.</i> (1) * * * (i) * * * You have the burden of demonstrating your contract is arm's-length. You are required to submit to MMS a copy of your arm's-length contract(s) and all subsequent amendments to the contract(s) within 2 months of the date MMS receives your first report that deducts the allowance on the Form MMS-2014.	1	30	30
206.180 (a)(1)(iii)	<b>How do I determine an actual processing allowance?</b> (a) <i>Determining a processing allowance if you have an arm's-length processing contract.</i> (1) * * * (iii) If MMS determines that the consideration paid under an arm's-length processing contract does not reflect the value of the processing because of misconduct by or between the contracting parties, or * * *. In these circumstances, MMS will notify you and give you an opportunity to provide written information justifying your processing costs.	PRODUCE RECORDS The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		0
206.180 (b)(1)(ii)	<b>How do I determine an actual processing allowance?</b> * * * (b) <i>Determining a processing allowance if you have a non-arm's-length contract or no contract.</i> (1) * * * (ii) * * * You must submit the actual cost information to support the allowance to MMS on Form MMS-4109, Gas Processing Allowance Summary Report, within 3 months after the end of the 12-month period for which the allowance applies. * * *	20	5	100

Citation 30 CFR 206 Subpart E	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
206.180 (c)(1)	<b>How do I determine an actual processing allowance? * * *</b> (c) <i>Reporting your processing allowance.</i> (1) If MMS requests, you must submit all data used to determine your processing allowance. * * *	PRODUCE RECORDS The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		0
<b>Subtotal</b>			<b>35</b>	<b>130</b>
<b>TOTAL BURDEN</b>			<b>92</b>	<b>285</b>

*Estimated Annual Reporting and Recordkeeping “Non-hour” Cost Burden:* We have identified no “non-hour” cost burdens.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501 *et seq.*) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

*Comments:* Section 3506(c)(2)(A) of the PRA requires each agency “\* \* \* to provide notice \* \* \* and otherwise consult with members of the public and affected agencies concerning each proposed collection of information \* \* \*.” Agencies must specifically solicit comments to: (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the *Federal Register* on April 26, 2004 (69 FR 22548), announcing that we would submit this ICR to



OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the ADDRESSES section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days.

Therefore, to ensure maximum consideration, OMB should receive public comments by [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

*Public Comment Policy:* We will post all comments in response to this notice on our website at [http://www.mrm.mms.gov/Laws\\_R\\_D/InfoColl/InfoColCom.htm](http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm). We will also make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado.

Upon request, we will withhold an individual respondent's home address from the public record, as allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state your request prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

*MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208-7744.*

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Date

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Lucy Querques Denett  
Associate Director for  
Minerals Revenue Management